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CONFIDENTIAL

SIPDIS
TELEGRAM

February 19, 2003

To: No Action Addressee
Action: Unknown
From: AMEMBASSY ABU DHABI (ABU DHABI 845 - ROUTINE)
TAGS: PREL, ETRD, KIPR
Captions: None
Subject: EMBASSY ABU DHABI COMMENTS ON DRAFT 2003 SPECIAL 301
REVIEW
Ref: None

C O N F I D E N T I A L ABU DHABI 00845

SIPDIS
CXABU:
ACTION: ECON
INFO: P/M AMB DCM POL
Laser1:
INFO: FCS

DISSEMINATION: ECON
CHARGE: PROG

APPROVED: AMB: MMWAHBA
DRAFTED: ECON:CMCRUMPLER
CLEARED: A/DCM:TWILLIAMS CGD: ROLSON

VZCZCADI121
RR RUEHC RUEHGV RUCNWTO RUCPDOC
DE RUEHAD #0845/01 0501351
ZNY CCCCC ZZH
R 191351Z FEB 03
FM AMEMBASSY ABU DHABI
TO RUEHC/SECSTATE WASHDC 8471
INFO RUEHGV/USMISSION GENEVA 0504
RUCNWTO/WORLD TRADE ORGANIZATION COLLECTIVE
RUCPDOC/USDOC WASHDC

C O N F I D E N T I A L SECTION 01 OF 03 ABU DHABI 000845

SIPDIS

STATE FOR NEA/ARP, NEA/PPR AND EB/IPC FOR WILSON
STATE PASS USTR - ALVAREZ AND BUNTIN
STATE PASS LOC - TEPP
USDOC FOR USPTO - URBAN
USDOC FOR LASHLEY
GENEVA PASS USTR

E.O. 12958: DECL: 02/19/08
TAGS: PREL KIPR ETRD TC
SUBJECT: EMBASSY ABU DHABI COMMENTS ON DRAFT 2003
SPECIAL 301 REVIEW

1.(U) Classified by Ambassador Marcelle M. Wahba for
reasons 1.5 (b) and (d).

¶2. (C) Summary and comment: The UAE Government is
at the forefront of protecting intellectual property
rights (IPR) in the region. As part and parcel
of its development into a regional trading center,

the UAE Government has made the protection of intellectual property a priority in recent years. New copyright, trademark and patent laws, passed in 2002, provide high levels of protection for U.S. intellectual property, while an agreement -- brokered by the Embassy in 2002 -- continues to provide TRIPs-plus levels of protection for U.S. pharmaceuticals. Additionally, the UAE has undertaken a massive public relations and enforcement effort against counterfeiting and routinely destroys copy-cat goods in large public events. UAE authorities cooperate closely with U.S. business to prevent counterfeiting of trademarked goods. Based on its solid record on IPR protection, we strongly recommend that the UAE remain off the Special 301 Watchlist this year. End summary and comment.

UAEG Enacts Laws To Protect IPR in 2002

¶ 13. (U) The UAEG repealed previous copyright, trademark, and patent laws and issued improved legislation in 2002 in harmony with international standards and exceeding the UAE's TRIPs obligations. The new Copyright Law, enacted in July 2002, is the product of a prolonged dialog between the UAEG and international organizations such as WIPO and the WTO. It grants protections to authors of creative works and expands the categories of protected works, to include computer programs, software, databases, and other digital works.

¶ 14. (U) The Business Software Alliance (BSA) issued a press release in July that the "new copyright law confirms the UAE as the region's standard bearer of intellectual property rights...The regular view and revision of copyright laws sends a clear message to international companies that these laws are real and are part of an active policy to protect IP rights [in the UAE]."

¶ 15. (U) The UAE's new Trademark Law, also issued in July 2002, confirms that the UAE will follow the International Classification System and that one trademark can be registered in a number of classes. The new law provides that the owner of the registration shall enjoy exclusive rights to the use of the trademark as registered and can prevent others from using an identical or similar mark on similar, identical or related products and services if it causes confusion among consumers.

¶ 16. (U) The UAE Government published the official and final version in November 2002 of the long-awaited Patent Law. Specifically, the Patent Law provides for -- in accordance with the UAE's TRIPs obligations -- national treatment for IP owners in other WTO Member States, both product and process patent protection, and enforcement of IPR whereby civil and criminal procedures and remedies may be employed.

Sustained Patent Protection For U.S. Pharmaceuticals

¶ 17. (C) In March 2002, the UAE Ministries of Health and Finance and Industry conveyed in writing their acceptance of PhRMA's "best and final offer" under which 25 U.S. patent-protected, innovative products would be afforded 5-year data exclusivity protection. Under the terms of the agreement which PhRMA and the UAEG accepted, all other U.S.-patented drugs, whether pending registration or not, will be given data exclusivity protection in the UAE market equal to the patent term -- a major commitment which puts the UAE well beyond its minimal WTO TRIPs obligations.

¶ 18. (C) The written assurances of the Ministries of Health and Finance ensure that no/no unauthorized copies of U.S. patent-protected medicines will be registered in

the UAE. That agreement is still holding firm and, in fact, the UAE has even refused to register copies of the 18 innovative pharmaceutical products that PhRMA agreed to allow local firm Julphar to produce in order to secure that agreement. The bottom-line remains that U.S. pharmaceutical products continue to enjoy TRIPs-plus levels of protection here.

Continuing Crackdown On Counterfeit Goods

¶9. (U) The UAE authorities are well aware of the danger to legitimate commerce posed by counterfeiting, particularly of safety-related items such as automobile spare parts and tires. The government has conducted a public awareness campaign warning consumers of the dangers of buying fake automotive components, and industry has also been active in this respect. A few examples include:

-- The Dubai and Sharjah Police have conducted a series of raids on "chop-shop" counterfeit parts distributors during the last year.

-- The Dubai Chamber of Commerce (DCCI) has established a Fake Parts Committee regarding counterfeit auto parts, in partnership with local auto-industry representatives including General Motors, AC Delco, Daimler Chrysler. More generally, the DCCI has embarked on a publicity campaign to heighten consumer awareness regarding counterfeit auto parts.

-- Sharjah Municipality has destroyed empty boxes that contained international trademarks of car spare parts (e.g., the empty boxes were to be filled with bogus parts, deceiving the consumer). Sharjah Municipality has also established an emergency phone hotline to report fake spare parts.

¶10. (U) Regular articles in the local dailies of raids and arrests of counterfeiters indicate that the authorities take seriously their responsibility to reduce the trade of other counterfeit consumer products, as well. Penalties for IPR violations include destruction of the counterfeit goods, destruction of the counterfeiting equipment, fines, imprisonment, and publication of judgment. The following are a few recent examples:

-- The Gulf News reported in August 2002 that raids by the UAE Ministry of Information led to the conviction of 34 IT resellers in Dubai who were dealing in illegal software. The authorities confiscated 47 PCs, which were loaded with copies of Windows 98, Windows XP, Office XP, and Adobe Photoshop. Dubai police raided several warehouses and seized equipment used for copying software CDs and more than 205,000 pirated CDs.

-- Dubai Customs in July 2002 destroyed 1.5 million pieces of counterfeit CDs, 16 tons of illegal medicines, 840 satellite decoder cards and 1,377 cartons of fake cigarettes. According to press reports, customs inspectors discovered the items while they were passing through either cargo or passenger inspections at various air, sea and land entry points across Dubai. Dubai Customs inspectors undertake continuous training programs in order to identify suspected illegal activities and use the latest equipment for uncovering and seizing counterfeit goods.

-- In July 2002, Sharjah Municipality confiscated and destroyed 799 cartons of fake cigarettes carrying the Marlboro trademark. Sharjah officials said that, in some cases, the agent notifies the Municipality about the location of fake products and sometimes people report offenders. The Municipality also employs undercover agents, disguised as customers, to visit shops and seek out counterfeit goods.

-- Sharjah Economic Department forced 14 outlets to remove the word "Mercedes" and the trademark three

pointed star in a circle logo associated with the Mercedes brand. Sharjah police closed some of the outlets pending their compliance.

Ensuring IPR Protection For The Long-Term

¶11. (U) The UAE Government is examining ways to further reduce the flow of counterfeit products and trademark infringement in the country. To this end, the National Anti-Fraud Committee was established in 2001 under the aegis of the Ministry of Economy and Commerce. The Committee's scope of responsibility was broadened in 2002 to allow for the study of commercial fraud and counterfeit and imitation trademarks, and requires that the Committee propose combating measures on an annual basis.

¶12. (U) The Emirate of Dubai established the "Dubai Technology, Electronic Commerce and Media Free Zone (TECOM)," which contains Dubai Internet City and Dubai Media City, and has been at the forefront of protecting digital media. In February 2002, Dubai issued the "Electronic Transactions and Commerce Law," which is modeled on the UNCITRAL Model Law on Electronic Commerce adopted by the United Nations. A similar federal law is under consideration by the UAE Ministry of Justice that would address copyright violations on the Internet, in particular.

¶13. (U) In October 2002, Sharjah sponsored a conference to encourage dialogue between IPR experts and the local business community regarding the value of intellectual property assets and how they can be tools for economic growth. IPR experts also discussed how local businesses could utilize patent laws to develop new business and import/export technology through licensing. Not to be outdone, Dubai will host a conference on "Middle East Law in the Internet Age" in March 2003. Designed for intellectual property and technology lawyers, the conference will explore recent legal developments in the area of electronic transactions, intellectual property and the Internet.

Wahba